

Agenda Item: 9-10

Meeting Dates: February 9 and 10, 2005

JOINT MEETING WITH BAY-DELTA PUBLIC ADVISORY COMMITTEE

DELTA IMPROVEMENTS PACKAGE UPDATE

Summary: The Delta Improvements Package Implementation Plan was adopted by the California Bay-Delta Authority in August 2004. Authority and State and Federal agency staff will provide an update on activities described in the Delta Improvements Package, and an update on project and program schedules.

Recommended Action: This is an information item only. No action will be taken.

Background

The Delta Improvements Package (DIP) outlines actions related to water project operations in the Delta that will result in increased water supply reliability, improved water quality, environmental protection and ecosystem restoration, protection of the Delta Levee system, and analyses and evaluation to support improved real-time and long-term management.

State Response to the U.S. Department of Interior November 22, 2004 letter

At the December 2004 joint meeting of the Authority and the Bay-Delta Public Advisory Committee (BDPAC), the Authority and BDPAC discussed the November 22, 2004 letter sent from the U.S. Department of Interior (DOI) (specifically U.S. Bureau of Reclamation (USBR) and U.S. Fish and Wildlife Service) to the California Departments of Water Resources (DWR) and Fish and Game and (DFG). Attachment 1 is the response from DWR and DFG, dated January 14, 2005. State and Federal agency staff will again be available to answer questions about this exchange of letters.

As discussed at the December 2004 joint meeting, USBR will provide an update on its proposed schedule to address the issues raised in the November 22, 2004 letter to the State agencies.

Incorporating the DIP Actions into the Multi-Year Program Plans

Attachment 2 is the updated Delta Improvements Package Summary of Schedules. Any new information is shown in underline. The original dates, including strikeouts, are from the version of the DIP adopted by the Authority at its August 2004 meeting.

During the next six months, the agencies will explicitly identify the actions listed the DIP in their revised Multi-Year Program Plans. This will ensure that each action listed in the DIP is matched with a responsible agency, and that the activity also has a budget and accurate timeline. Once the Multi-Year Program Plans are completed in June 2005, Authority staff will revise the DIP Implementation Plan so that each action shown in the Summary of Schedules also has an estimated budget.

A Comprehensive Overview of Water Quality, Fisheries, and Levees Issues in the Delta

There was also a request made at the December 2004 joint Authority and BDPAC meeting for a briefing on Franks Tract. The State and Federal agencies are mindful of the relationship between the evaluation of Franks Tract and the investigations of the Delta Cross Channel operation and the Through-Delta Facility. The issues associated with Delta water quality, fisheries, and levees are central to the determinations that must be made by the State and Federal agencies at the end of Stage 1 as described in the CALFED Record of Decision. Given the significance of these issues, the agencies are planning a briefing for the April 2005 joint meeting of the Authority and BDPAC. This briefing will include an update on the Franks Tract, Delta Cross Channel, and Through-Delta studies, related water quality and fisheries evaluations in the Delta, and a status report on the Comprehensive Levee Program Evaluation.

List of Attachments

- Attachment 1 -- DWR/DFG Response to DOI November 22, 2004 letter
- Attachment 2 -- Delta Improvements Package Revised Summary of Schedules
- Attachment 3 -- Letter from Senator Sheila Kuehl and Assemblymember Fran Pavley to Secretary Mike Chrisman, Secretary Terry Tamminen, and Gary Hunt dated December 20, 2004
- Attachment 4 -- Letter from NOAA Fisheries to Gary Hunt dated December 20, 2004

Contact

Tim Ramirez
Senior Advisor

Phone: (916) 445-5511

Ron Ott
Delta Regional Coordinator

Phone: (916) 445-2168



DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791

DEPARTMENT OF FISH AND GAME

1416 NINTH STREET, P.O. BOX 944209
SACRAMENTO, CA 94244
(916) 653-7664



JAN 14 2005

Mr. Kirk C. Rodgers
Regional Director
Mid-Pacific Regional Office
Bureau of Reclamation
U.S. Department of Interior
2800 Cottage Way
Sacramento, California 95825-1898

Mr. Steve Thompson
Manager
California-Nevada Operations Office
U. S. Fish and Wildlife Service
2800 Cottage Way, Room W-2606
Sacramento, California 95825-1846

Integration of Central Valley Project Improvement Act Actions with the Environmental Water Account

This is in response to your November 22, 2004 request that the Environmental Water Account (EWA) be managed in close integration with the environmental water assets as set forth in Section 3406 of the Central Valley Project Improvement Act (CVPIA). We concur with your objective of better integrating EWA and fisheries actions in CVPIA and to achieve this integration while maintaining and perhaps improving fisheries protection and recovery objectives.

The EWA was established by the CALFED Record of Decision in August 2000 to achieve two general objectives; water supply reliability for Central Valley Project (CVP) and State Water Project (SWP) operations in the Delta and added protection for at risk fish species dependant on the Bay/Delta Estuary to achieve a trajectory toward recovery of these species. These objectives are achieved with (1) the existence of the regulatory baseline consisting of existing regulatory actions and CVPIA resources, and (2) EWA plus an adequately funded Environmental Restoration Program.

The EWA was initially established as a four year program to test its viability. Over the past four years the five agencies that manage EWA (Bureau of Reclamation (Bureau), United States Fish and Wildlife Services (USFWS), National Oceanic and Atmospheric Administration Fisheries (NOAA), Department of Fish and Game (DFG) and Department of Water Resources (DWR) collectively referred to as EWA agencies) has made EWA into a flexible water and fisheries management tool to achieve its objectives.

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During these first four years we have integrated actions under the CVPIA 3406b(2) with those of EWA. In fact, about 175,000 acre-feet of water was used by EWA for actions that would have normally been conducted by b(2) actions except that the b(2) resources were not sufficient in these years to provide that protection. This collaboration can continue because the EWA agencies extended the existing EWA program in September of 2004 for an additional three years.

Based on the discussion at the California Bay Delta Authority meeting on December 8, 2004, we believe the issue the Department of Interior (DOI) is addressing with this proposal is that the current b(2) policy as recently modeled for the Operation Criteria and Plan consultation shows the 800,000 acre-foot b(2) account limit may be exceeded in about 40 percent of the years. The model assumptions for b(2) actions represents DOI's staffs best efforts to reflect current court decisions. However, concern has been expressed by some water users that the effect of this exceedance is reduced water supply reliability for the CVP water users and that such exceedances may exceed legal authority. Your letter suggests there may be an opportunity to address these water supply reliability impacts through means that would be consistent with the intent of the CALFED Record of Decision. DFG and DWR are interested in evaluating and implementing your proposal to determine if it or some other alternative can achieve your intended purpose without affecting our Conservation Agreement with the State and federal fishery agencies and the 2004 Biological Opinions for the current operations of the CVP and SWP and potentially for future project operations.

We believe several activities need to take place to fully evaluate and potentially implement your proposal. First, we understand that DOI will develop the proposed change in the accounting year for the 3406 b(2) water to a calendar year by a formal revision to the May 2003 b(2) decision. Once a draft of the revision is developed we understand that it will undergo public review that is estimated to last a minimum of 60 days. In our view, this public review process is very important to allow interested parties time to consider your proposal and to potentially propose alternatives.

Second, we feel that the implementation aspects of the proposed policy should also undergo technical review by EWA agency staff and interested stakeholders related to its possible impacts on EWA resources. Your letter made it clear that your proposal was not intended to reduce the fishery protections currently provided but to improve water supply reliability to the CVP related to the implementation of the provisions of the CVPIA. Our preliminary analysis indicates that this change could place an added burden on EWA in some years

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but with the right tools we could greatly reduce this burden or even provide benefits to EWA. We need to make a concerted effort to understand these potential effects in a more comprehensive analysis of your proposal and the tools and resources needed to accomplish its goals. Determining if the present level of fisheries protection can be maintained with your proposal requires careful evaluation. This evaluation should be done over the next few months by the agencies with public input. We suggest that this evaluation also seek feedback and guidance from the CBDA Science Program including to the extent possible representatives of the EWA science review panel.

Third, your proposal highlights the need to develop and clearly define new tools for EWA to enable it to assist in implementation of your proposed change in the b(2) accounting year. Potential tools should be evaluated, refined and then implemented through the revision of the EWA Operation Principles and Protocols. Our initial evaluation indicates these tools include:

Borrowing Water from the CVP - DWR has agreed to allow the EWA to borrow water assets from the SWP between years if needed, provided this borrowing does not affect project deliveries. No such arrangement currently exists for the CVP. We suggest that an EWA protocol be developed to allow EWA to borrow from CVP reservoirs up to 200 TAF in any year and carry up to 300 TAF of water debt between years. The borrowed water could be used for any EWA purpose upstream and could be exchanged in the Delta with the SWP for use as Delta outflow with appropriate credit by the SWP at Banks. The payback of the water borrowed would parallel the existing EWA Operating Principles, applicable to SWP borrowing, of no net water cost to the CVP.

Banking b(2) Water with EWA - The current b(2) policy allows for the banking of b(2) assets but specific rules to accomplish this have not yet been developed. Banking rules need to be formalized to allow b(2) assets in one year to be banked with EWA to use to better protect fish in a future year. Once this water becomes EWA water it would take on the attributes of EWA assets including all the benefits of carryover and liabilities spill that EWA has in SWP facilities. For example, the water could be carried for multiple years, would be the first water spilled and would be carried at no cost to EWA, but would receive no power credits.

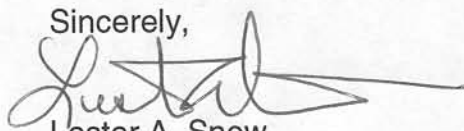
Aggressive Use of 3406 b(1). The State suggests that DOI evaluate more aggressive use of b(1) to accomplish the purposes of the CVPIA. There may be opportunities when the CVP can reoperate its water releases from CVP reservoirs to provide better protection for fish downstream and capture all or a


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part of this water in the Delta with no adverse effects on CVP water supply. The SWP does this regularly and does not seek EWA to cover these costs. We request that, as part of this better integration of CVPIA actions and EWA resources, the CVP aggressively take advantage of b(1) opportunities before charging the b(2) account and thereby minimizing the possible need to use EWA resources because the b(2) assets have been exhausted. If your proposal or any similar alternative is to be implemented, we believe it is essential that there be an increase in the transparency and clarity of b(2) accounting methods being used as well as improvement in the timeliness of updating and sharing the accounting results. Clear and reliable knowledge of the status of b(2) and EWA assets will be even more critical than in the past if further integration of these two environmental protection tools is to succeed.

Fourth, we are willing to consider the possibility of using the EWA, revised as necessary, as a means to accommodate the water supply reliability concerns with the current b(2) policy, while maintaining fisheries protection. This is one of the benefits of a flexible EWA. As such, we suggest that DOI include in any revision to the current b(2) policy a commitment to maintain EWA or a functional equivalent.

If you are in agreement with moving forward with the evaluation of your proposal and the associated issues discussed above, we suggest that the EWA agencies immediately begin developing EWA protocols defining the tools listed above and any other tools that our respective staffs determine are needed and are feasible. An exercise to evaluate use of these tools in conjunction with the proposed change in the b(2) policy should begin as soon as possible to test these concepts. This can be done while you pursue the proposed change to the existing b(2) policy suggested in your letter. These actions will assist our discussions about implementing these changes quickly and in our evaluation of a long-term EWA. We look forward to our continued cooperative approach of providing both the fishery protections and water supply reliability envisioned in the CALFED Record of Decision.

Sincerely,

Lester A. Snow
Director
Department of Water Resources


L. Ryan Broddrick
Director
Department of Fish and Game

cc: See attached list.

cc: Mr. Gary Hunt
Chair
California Bay Delta Authority
650 Capitol Mall, 5th Floor
Sacramento, California 95814

Mr. Jim Lecky
NOAA Fisheries
Assistant Regional Administrator for Protected Resources
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

SUMMARY OF SCHEDULES
Updated January 24, 2005

WATER SUPPLY ACTIONS AND SCHEDULES

SWP/CVP Integration Plan

Schedule:

- Complete SWP/CVP Operations Criteria and Plan Biological Opinion and early consultation on intermediate actions to improve CVP/SWP operation coordination by ~~Summer~~ Fall 2004 **(completed)**
- Completion of appropriate Response Plans required by D-1641 for use of Joint Point of Diversion by August 2004 **(completed)**
- Complete NEPA/CEQA analyses and public review of interim SWP/CVP operation actions by early 2005
- Initiate formal consultation or request confirmation of preliminary Biological Opinion on interim SWP/CVP operation actions by early 2005
- Implement intermediate SWP/CVP operation actions during 2005

SWP/CVP Intertie

Schedule:

- Complete draft environmental documents (EA/IS) by the ~~Summer~~ November 2004 **(completed)**
- Initiate construction of the 400 cfs intertie by ~~late 2004~~ October 2005
- Operation of the 400 cfs conveyance capacity by ~~late 2005~~ in 2006
- ~~Obtain federal construction authorization to increase intertie conveyance capacity to 900 cfs by November 2006~~
- Initiate federal feasibility study to increase intertie conveyance capacity by October 2006

San Luis Reservoir Low Point Improvement Project

Schedule:

- Complete Appraisal Study by ~~September 2004~~ May 2005
- Complete Draft EIR/EIS by ~~May 2005~~ March 2007
- Obtain funding and authorization for construction in ~~June 2006~~ October 2007

South Delta Improvements Project/Increase SWP Pumping to 8,500 cfs

Schedule:

- Final SDIP EIS/EIR and Record of Decision and Notice of Determination by ~~Mid-~~ October December 2005
- Transitional implementation of 8500 cfs, dredging/diversion improvements, ~~2005~~ 2006-2007
- Complete Construction of permanent operable barriers by December 2007
- Fully operate under 8,500 cfs by January 4, 2008

WATER QUALITY ACTIONS AND SCHEDULES

South Delta Improvements Project/Permanent Operable Barriers

Schedule:

- See Schedule above for SDIP/Increase SWP pumping 8,500 cfs

San Joaquin River Salinity Management Plan

➤ Coordinated Drainage Strategy

Schedule: Ongoing

➤ Salt Load Management and Reduction

Schedule:

- The San Joaquin River Salinity Management Group to begin study of refuge salinity management by summer 2004

➤ Recirculation

Schedule:

- Ongoing
- Initiate studies for specific recirculation scenarios by fall 2004

➤ Voluntary Water Transfers and Exchanges

Schedule: Ongoing

➤ Real-time Monitoring

Schedule: Ongoing

➤ Coordination of East Side Tributary Operations

Schedule:

- Initial draft of potential actions for coordination by October 2004

➤ Introduction of Potential High Quality Wastewater Treatment Plant Flows

Schedule:

- Develop draft options by March 2005

➤ Westside Groundwater Management

Schedule: Ongoing

Vernalis Flow Objectives

- Schedule: Ongoing

San Joaquin River Dissolved Oxygen

Schedule:

- Complete the RWQCB Phased TMDL and Basin Plan Amendment by ~~December 2004~~ January 2005
- Complete monitoring and modeling studies by June 2007
- Design, construct and operate a demonstration aeration system, fall 2005-2008
- Evaluate other control projects and mitigation strategies, April 2004-December 2008
- Complete Final TMDL/Basin Plan Amendment for long-term control by 2009

Old River and Rock Slough Water Quality Improvement Projects

Schedule:

- Complete construction of Veale and Byron tracts drainage improvements by December 2005
- Complete construction of first phase Canal lining project by December 2006

Franks Tract

Schedule:

- ~~Complete water quality and fish studies and make recommendations by April 2005~~
- Develop program plan March 2005
- Complete pre-feasibility study Summer June 2005
- Construct and monitor pilot projects, January 2006 - January 2008 (currently under reevaluation)

Delta Cross Channel Program

Schedule:

- Complete evaluations and make recommendations on reoperation by November 2005 (currently under reevaluation)
- Implement reoperation recommendations by January 2006 (currently under reevaluation)

Relocation of M&I Intake

Schedule:

- Complete evaluation of water quality improvements (date to be developed)

Through-Delta Facility

Schedule:

- Complete evaluations, determine TDF technical viability, and recommend projects for implementation by November 2005 (currently under reevaluation)
- Seek funding and initiate EIR/EIS for project implementation by January 2006 (currently under reevaluation)

ENVIRONMENTAL PROTECTION ACTIONS AND SCHEDULES

OCAP ESA Consultation

Schedule:

- OCAP Biological Opinions issued by ~~Summer~~ Fall 2004 (**completed**)

SDIP ESA Consultation

Schedule:

- SDIP Biological Opinion issued by ~~January 15,~~ August 2005

Update of CALFED ROD Programmatic Regulatory Commitments and Programmatic Biological Opinions

Schedule:

- Complete assessment of the efficacy of the EWA and progress toward achieving the milestones, by August 2004 (**completed**)
- Update Programmatic Regulatory Commitments by September 30, 2004 (**completed**)
- Update Programmatic Biological Opinions by September 30, 2004 (**completed**)

Environmental Water Account (EWA)-

Schedule:

- Decision on continuing short-term EWA by September 30, 2004 (**completed**)
- Draft EIS/EIR on long-term EWA by ~~June~~ December 2005
- Final EIS/EIR on long-term EWA by December 20056

Delta Regional Ecosystem Restoration Implementation Plan (DRERIP)

Schedule:

- Complete development and peer review of species life history and ecosystem element conceptual models by ~~December 2004~~ December 2005
- Evaluate Delta ERP Actions and approve priority setting process by ~~May 2005~~ May 2006

- Complete final DRERIP in ~~December 2005~~ December 2006

DELTA LEVEES ACTIONS AND SCHEDULES

Schedule:

- Implement the Levee System Integrity Multi-Year Program Plan (Years 5-8)

SCIENCE ACTIONS AND SCHEDULES

Independent Science Board

Schedule: Ongoing

Environmental Water Account Independent Reviews

Schedule:

- EWA Science Panel review in November 2004 **(completed)**

Focused Study on South Delta Hydrodynamics, Water Quality, and Fish

Schedule:

- Conduct pilot investigations on South Delta hydrodynamics, fisheries, and water quality between May 2004 and ~~July~~ December 2005
- Conduct detailed scientific study on feasibility of using new SWP/CVP operations strategies to reduce fishery impacts between ~~March 2005 and July 2007~~ January 2006 and December 2007
- Report full results and whether new operations strategies are feasible as soon as possible, but no later than 2008 -

Focused Study on Delta Smelt and Fish Facilities

Schedule:

- Evaluate fish survival in the existing CHTR process between April 2004 and June 2007
- Recommend implementing CHTR improvements for delta smelt by July 2008

Science Program PSP.

Schedule:

- Proposal Solicitation Package will be available October 2004 **(completed)**

SWRCB Periodic Review

Schedule:

- Periodic review proposed to start in fall of 2004

South Delta Fish Facilities

Schedule:

- Maintain and improve existing fish facilities. Ongoing.
- Conduct alternative facility configurations and operational studies, July 2004 to July 2006 (currently under reevaluation)
- Recommendation on new fish facility alternatives (with SDIP 10,300) by July 2006 (currently under reevaluation)

Performance Evaluation and Monitoring Program

Schedule:

- Final Conceptual Plan by January 2006
- Final Implementation Plan for Comprehensive Monitoring Plan by July 20056

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TAM MA

COMMITTEE ASSISTANT
PATTY HANSON

STATE CAPITOL, ROOM 407
SACRAMENTO, CA 95814
TEL (916) 445-5441
FAX (916) 323-2232

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DEC 20 2004

CALIFORNIA BAY-DELTA
AUTHORITY

December 6, 2004

Mike Chrisman, Secretary
Resources Agency
1416 Ninth Street
Sacramento, CA 95814

Terry Tamminen, Secretary
California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

Gary Hunt, Chairman
California Bay-Delta Authority
4450 Capitol Mall
Sacramento, CA 95814

Re: November 22 Letter from the Department of Interior
Regarding Water for Environmental Restoration

Dear Secretary Chrisman, Secretary Tamminen, and Chairman Hunt:

We have received a copy of the November 22 letter from the Department of Interior to state agencies regarding the management of CALFED's Environmental Water Account (EWA) and water dedicated to restoration under federal law. As your agencies develop a response to Interior's request, we ask that you consider several additional questions.

How do you propose to ensure an open, public process, pursuant to the spirit of the CALFED program, to ensure that questions and concerns regarding Interior's proposal

are fully addressed? During the past year, we have heard several reports of agencies failing to fully engage CALFED and stakeholder groups prior to making key water management decisions. We believe that the open, public process used by CALFED ensures not only full public participation, but also the best possible management decisions.

How do your agencies propose that the EWA be funded for the coming several years?

We note with some concern that the most recent federal appropriations bill includes only one million dollars for the Environmental Water Account. California taxpayers are bearing the majority of the cost of funding the EWA. As this effort moves forward, water users should bear EWA costs related to meeting mitigation requirements. State taxpayer funds will not be used to repair damage caused by federal environmental rollbacks.

Has the EWA met the water targets in the ROD? Before state and federal agencies expand the EWA, they must first determine if it is adequately performing the water supply reliability and restoration work for which it was originally intended.

Is the Interior proposal consistent with the CALFED ROD? Several concerns have been raised regarding the consistency of this proposal with the CALFED Record of Decision. As CALFED implementation move forward, it is important that the commitments made in the ROD be respected.

How will this proposal affect the CALFED ecosystem restoration program? We understand that Interior's proposal could reduce the amount of water available to implement ecosystem restoration efforts. Obviously, we must avoid a situation where state investments of hundreds of millions of dollars in ecosystem restoration are undermined by federal agency actions. In addition to the current proposal, have your agencies performed an analysis of the cumulative ecosystem restoration impacts of federal actions, since the ROD was signed, regarding the management of environmental water, the EWA and the implementation of the Endangered Species Act?

What impact could Interior's proposal have on requirements related to ESA compliance at the Delta pumps and, by implication, on water supply reliability for the 20 million Californians who drink Delta water?

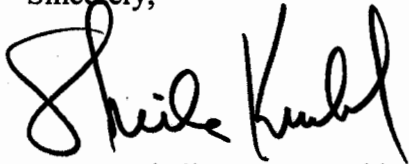
How would Interior's proposal affect progress toward resolving Delta water quality issues and developing a South Delta Improvement Project (SDIP)? State and federal law require that CALFED's Delta strategy include a solution to serious water quality problems in the Delta. Further, CALFED agencies are working to develop a long-term Delta strategy, often referred to as the SDIP, that is likely to require reliable funding, a stable Environmental Water Account, a credible baseline and environmental benefits.

We urge you to resist rollbacks of environmental protections that would harm the Bay-Delta ecosystem, particularly those that were so carefully incorporated into the CALFED Record of Decision. The CALFED Program promised an open, public process and steady progress regarding water supply reliability, water quality and ecosystem health.

We are committed to those goals and look forward to working with you to ensure a balanced program.

We look forward to your responses to the above questions. Please keep us informed regarding your response to the Department of Interior.

Sincerely,



Senator Sheila James Kuehl



Assemblymember Fran Pavley

Cc: Lester Snow
Ryan Broddrick
Patrick Wright

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Sacramento Area Office
650 Capitol Mall, Suite 8-300
Sacramento, California 95814-4706

December 14, 2004

CALIFORNIA BAY-DELTA
AUTHORITY

In Reply Refer To:
151400SWR1999SA5950:JSS

Mr. Gary Hunt
Chairman, California Bay-Delta Authority
650 Capitol Mall, 5th Floor
Sacramento, California 95814

Dear Mr. Hunt:

Thank you for your letter requesting support of the California Bay-Delta Authority's (CBDA) Delta Improvement Package (DIP), which has recently been developed by the State and Federal agencies that are signatories to the CALFED Record of Decision (ROD).

The National Marine Fisheries Service (NOAA Fisheries) supports implementation of the DIP, based upon our understanding of the projects as currently described. NOAA Fisheries recognizes that the DIP is a general plan and does not describe specific projects in sufficient detail to determine their potential effects upon listed salmonids. Therefore, NOAA Fisheries' support of the DIP does not represent a final decision on the impacts of the respective segments of the DIP to be implemented; rather, as plans for specific projects described in the DIP reach maturity, NOAA Fisheries, as well as the other State and Federal regulatory agencies, will make regulatory decisions based on the project's description and record at that time.

NOAA Fisheries looks forward to continuing our relationships with State and Federal agencies as we move forward to implement the CALFED Record of Decision. If you have any questions regarding these comments, please contact Jeffrey Stuart in our Sacramento Area Office, 650 Capitol Mall, Suite 8-300, Sacramento, CA 95814. Mr. Stuart can be reached by telephone at (916) 930-3607, or by FAX at (916) 930-3629.

Sincerely,

Michael E. Aceituno
Supervisor, Sacramento Area Office

cc: NMFS-PRD, Long Beach, California

